

**Rule 290-2-2-.05 Licenses, Commissions, and Exemptions**

**(e) Exemptions.** All programs providing group care for children shall obtain either a license for an early care and education program or an exemption from the department. Any person or entity operating or planning to operate such a service believed to meet the criteria for exemption from licensure, as listed below, shall apply to the department for exemption by submitting the department's application for exemption.

1. The application for exemption shall be notarized and shall include:

- (i) A valid and current e-mail address,
- (ii) A written description of services, fees, ages of children to be served, months, days, and hours of operation and location,
- (iii) Copies of written policies, advertisements, parental agreement forms, and other materials to support the criteria for exemption as determined by the department.
- (iv) A sworn statement that the information provided to the department is accurate and truthful.

2. The exemptions granted by the department are exemptions from licensure, and do not affect the authority of local, regional or state health department officials, the state fire marshal, local fire prevention officials, local or regional building officials or zoning officials to inspect and approve facilities and locations. Programs operated in a residence are not eligible for exemption. Additionally, the exemption is only valid at the address listed on the application.

3. A program granted an exemption shall post in a prominent place near the front entrance of the facility both a copy of the exemption approval letter issued by the department and a notice provided by the department that will notify a parent or guardian that the program is not licensed

and is not required to be licensed by the state. The notice shall be at least ½ inch letters and shall contain the department's telephone number and website address.

4. A program approved for exemption shall maintain attendance records for children. When a parent or guardian initially registers a child with an exempt program, the parent or guardian shall sign a form indicating the parent or guardian has been advised and understands that the program is not licensed and is not required to be licensed by the state. The program must maintain the attendance records and parental notification forms during the time the child is enrolled in the program and for one year after the child no longer attends the program. All records shall be made available to any authorized representative of the department upon request.

5. Any program granted an exemption from licensure that subsequently loses accreditation, closes and/or ceases operation shall notify the department in writing within five (5) business days of such a change. A program granted an exemption that has subsequent material changes in the operation of their program, such as, but not limited to, a change of physical location, a change in operating months, days, and/or hours, or a change in the ages served shall be required to submit a new application for exemption to the department.

6. Programs granted an exemption may be required to periodically update the department on the status of their exemption and operating information, such as, but not limited to, submitting an annual report that would contain information related to the exemption approval.

7. The department may rescind an approval for exemption when one or more of the following is determined by the department:

- (i) The program no longer meets the criteria for the exemption.
- (ii) The program provided false information during the exemption request process or during an investigation.

- (iii) The program failed to comply with local, regional, and state health department, fire marshal, fire prevention, and building/zoning guidelines/requirements.
- (iv) The program failed to provide the department with a valid and current e-mail address or with other information requested by the department, such as but not limited to, the months, days, and hours of operation, ages of children served and operating address.

**(f) Exemption Categories.** The following types of programs shall be exempt from licensure:

1. Programs which are owned and operated by any department or agency of state, county, or municipal government. This includes, but is not limited to, the customary school day, as defined in Georgia law, and before and/or after school programs in public schools operated by the public school system and staffed with school system employees and recreation programs operated by city or county parks and recreation departments and staffed with city or county employees.
2. Private non-public educational programs with an established curriculum for children five (5) years and older that operate during the school term for the customary school day, as defined by Georgia law.
3. A private non-public school which provides education in any grades from kindergarten through 12<sup>th</sup> grade, meets the requirements under Georgia law for private schools (See O.C.G.A. Sec. 20-2-690), and is accredited by one or more of the entities listed in O.C.G.A. Sec. 20-3-519(6)(A) and which provides care before, after, or both before and after the customary school day, as defined in Georgia law, to its students as an auxiliary service to such students during the regular school year only. The accrediting entities listed in O.C.G.A. Sec. 20-3-519(6)(A) are:
  - (i) The Southern Association of Colleges and Schools;
  - (ii) The Georgia Accrediting Commission;
  - (iii) The Georgia Association of Christian Schools;

- (iv) The Association of Christian Schools International;
- (v) The Georgia Private School Accreditation Council;
- (vi) The Southern Association of Independent Schools;
- (vii) The Accrediting Commission for Independent Study. (O.C.G.A Section 20-3-519(6.1)(A).

4. Accredited private non-public educational programs with an established curriculum for four-year-old children for the customary school day, as defined in Georgia law, that are not part of a full day child care learning center and are an integral part of an accredited private non-public school that provides elementary or secondary instruction or both, providing the accreditation specifically covers these ages; any before and/or after school hours for four-year-old children who attend such a program as described above, provided the children do not leave the premises of the accredited private non-public school and the program is staffed with employees of that private non-public school.

5. Parent's Morning Out, Parent's Night Out, or similar programs which operate for no more than one session of up to four (4) consecutive hours per day and which limit attendance to no more than eight (8) hours a week per child.

6. Nursery schools, playschools, kindergartens or other educational programs for children two (2) years through six (6) years of age which operate for no more than four (4) consecutive hours per day.

7. Day camp programs for children five (5) years and older that are operated between school terms, whose primary purpose is to provide organized recreational, religious, or instructional activities. The day camp programs may operate during summer and other school breaks and shall operate for no more than twelve (12) hours per day.

8. Short-term educational or recreational activities or classes for children in which the supervision and care of the children are incidental to their participation in the activity or training in specific subjects, such as, but not limited to, music lessons, dance classes, swim lessons, etc. The provider is not assuming responsibility for supervision and care of the children outside of the classes or activities the children participate in and shall not advertise or otherwise represent that child care services are offered.

9. Any short-term child care service provided by an establishment, such as, but not limited to, a religious facility, health club, or retail store, and such program or service meets all of the following:

- (i) Operated on the premises of the establishment;
- (ii) Operated for the convenience of the parents, guardians, or custodians and for the use of on-duty employees or students attending classes;
- (iii) Parents, guardians, or custodians are participating in activities provided by the establishment on the premises of the establishment;
- (iv) Parents, guardians, or custodians are readily available;
- (v) Attendance of child in the short-term child care service is limited to no more than four (4) hours per day and no more than ten (10) hours per week, except in the instance of child care services offered at infrequent events such as, but not limited to, conferences and weddings.

10. Programs operated after the customary school day, as defined in Georgia law, for children five (5) years and older that are strictly instructional and skill-based in a single talent, ability, expertise, proficiency or subject or in closely related skills, proficiencies or subjects, including

but not limited to classes such as art, cheerleading, dance, drama, gymnastics, martial arts and music, and the programs comply with all of the following:

- (i) Programs provide direct instruction in the single skill or subject and/or closely related skills or subjects to every child each day the child is present;
- (ii) Programs do not provide services that are not directly related to the single skill or subject or to the closely related skills or subjects, such as but not limited to homework assistance. During the hours of operation, programs may provide services related to the instruction, such as transportation and giving children time to change into proper clothes/gear;
- (iii) Programs shall not advertise or otherwise represent that the program is a child care facility, an after school program, or that the program offers child care services;
- (iv) Programs shall not prepare meals and snacks, but may provide ready-to-eat snacks, such as pre-packaged snacks;
- (v) The majority of the program staff responsible for instruction shall possess specialized qualifications to instruct in that skill or subject, and the program shall submit documentation of such specialized qualifications of staff to the department at the time of application for exemption or as requested by the department;
- (vi) Programs shall inform parents or guardians about the physical risks a child may face while participating in the program;
- (vii) Such programs shall not be an integral part of a licensed child care learning center or day care center;
- (viii) Enrollment information shall clearly define the duration of the program.

11. Short term educational programs offered to school-aged children in which the supervision and care of the children are incidental to their participation in the short-term educational

program, and the provider is not assuming responsibility for the provision of daily child care outside the scheduled program. The majority of staff responsible for the direct delivery of education services to children possesses specialized qualifications that are directly related to the short term educational programs being offered, and the program shall submit documentation of such specialized qualifications to the department at the time of application for exemption or as requested by the department. The sole or primary purpose of such short term educational programs is:

- (i) To prepare children for advancement to the next educational level through a prescribed course of study or curriculum;
- (ii) To provide specialized tutoring services through a prescribed course of study or curriculum to assist children with the passage of mandatory educational proficiency examinations;
- (iii) To provide specialized tutoring services through a prescribed course of study or curriculum to assist children in specific academic areas, such as, but not limited to, foreign language, mathematics, science, etc.

12. Any program or facility providing care for school-aged children that is operated by, or in affiliation with a national membership non-profit organization that was created for the purpose of providing youth services and youth development, that may charge a membership fee for children and may receive monthly, weekly, or daily fees for services. Such program or facility holds membership in good standing and is certified by its national association as complying with the association's purposes, procedures, minimum standards and mandatory requirements. Such national membership organizations include, but are not limited to, the Boys and Girls Clubs of America.

13. Any program providing group care for children for no pay.

14. **Faith based exemption – existing exemption and no changes made to this category.**

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